

2 to CF
propo

18 pm
5/17/01

ORIGINAL

FILED
HARRISBURG, PA
MAY 16 2001
MARY E D'ANDREA CLERK
Per Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DARRELL G. OBER,

Plaintiff

vs.

PAUL EVANKO, MARK
CAMPBELL, THOMAS COURY,
JOSEPH WESTCOTT,
HAWTHORNE CONLEY,
JOANNA REYNOLDS,
AND SYNDI GUIDO

Defendants

NO. 1: CV-01-0084
(Judge Caldwell)

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**DEFENDANTS' MOTION TO EXPAND
THE PAGE LIMIT FOR THEIR BRIEF IN SUPPORT
OF THE MOTION TO DISMISS OR STRIKE
PLAINTIFF'S SECOND AMENDED COMPLAINT**

AND NOW, pursuant to Local Rule 7.8, defendants ask this Court for permission to file an 18-page brief in support of their motion to dismiss or strike plaintiff's second amended complaint:

1. Plaintiff is a Captain in the Pennsylvania State Police currently serving as Director of the Administrative Division of the Bureau of Liquor Control Enforcement.

2. On January 16, 2001, plaintiff filed a complaint against defendants Paul Evanko, Mark Campbell, Thomas Coury, Joseph Wescott, and Hawthorne Conley.

3. On March 16, 2001, defendants filed a motion to dismiss all claims. A copy was served on plaintiff's counsel that same day by mail.

4. On April 2, 2001, plaintiff filed a motion to amend the complaint and an amended complaint, which were received by defendants' counsel on April 5, 2001.

5. Plaintiff's first amended complaint added Joanna Reynolds, Esquire (co-counsel to the other defendants) as a defendant and, without any supporting facts, unjustifiably accused Ms. Reynolds and the other defendants of illegally conspiring to alter regulations, intentionally misrepresenting facts to the Court, and removing the regulations' "historic file" to hide supposedly illegal conduct. (*See* paragraphs 52 through 56 of plaintiff's first amended complaint, filed April 2, 2001.)

6. Plaintiff's allegations against Ms. Reynolds stemmed from an erroneous citation to Pennsylvania State Police Administrative Regulation 1-1.02(c), which was not in effect at the time of the events complained of in plaintiff's original complaint.

7. On April 19, 2001, defendants filed a reply brief as well as a motion to dismiss or strike the plaintiff's first amended complaint. In the reply brief, the undersigned counsel readily admitted that the citation to AR 1-1.02(c) was an error, albeit an innocent one.

8. On April 23, 2001, this Court granted defendants' motion to strike the amended complaint and gave plaintiff ten days to file a new amended complaint as permitted by Fed. R. Civ. P. 15(a).

9. On May 2, 2001, plaintiff filed a second amended complaint.

10. On this date, May 16, 2001, defendants have filed a motion to dismiss or strike plaintiff's second amended complaint as provided for by Fed. R. Civ. P. 12(b)(6) and (f).

11. Defendants' brief in support of the motion to dismiss or strike must be filed within 10 days as provided for in Local Rule 7.5.

12. Local Rule 7.8 provides that defendants' supporting brief cannot exceed 15 pages without prior permission of the Court.

13. In defendants' brief in support of their motion to dismiss plaintiff's original brief, defense counsel found it necessary to use all 15 pages to address plaintiff's failure to state a claim against defendants Evanko, Campbell, Coury, Wescott, and Conley, as well as their immunity from suit.

14. Pursuant to this Court's order of April 23, 2001, defendants' brief cannot incorporate their prior brief on these issues.

15. In plaintiff's latest amended complaint, he has added accusations against both defense counsel, accusing them of abuse of process based on their citation to two different Pennsylvania State Police regulations.

16. In briefing their motion to dismiss or strike plaintiff's second amended complaint, defense counsel ask this Court for an additional three pages to address the claims against them.

17. As required by Local Rule 7.1, the undersigned counsel sought and received the concurrence of plaintiff's counsel, Don Bailey, Esquire, in this motion to expand the page limit. A certificate of concurrence is attached.

WHEREFORE, defendants ask this Court for permission to file an 18-page brief in support of their motion to dismiss or strike plaintiff's second amended complaint.

Respectfully submitted,

JAMES M. SHEEHAN
General Counsel
Commonwealth of Pennsylvania

By: 

SYNDI L. GUIDO
Deputy General Counsel
Governor's Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101
(717) 783-6563

JOANNA N. REYNOLDS
Assistant Counsel
Pennsylvania State Police
1800 Elmerton Avenue
Harrisburg, PA 17110
(717) 783-5568

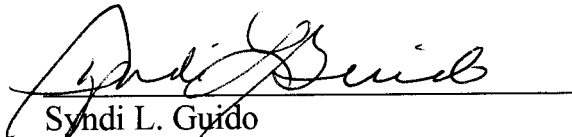
Dated: May 16, 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DARRELL G. OBER,	:	
	:	
Plaintiff	:	NO. 1: CV-01-0084
	:	(Judge Caldwell)
vs.	:	
	:	CIVIL ACTION - LAW
PAUL EVANKO, MARK	:	
CAMPBELL, THOMAS COURY,	:	JURY TRIAL DEMANDED
JOSEPH WESTCOTT,	:	
HAWTHORNE CONLEY,	:	
JOANNA REYNOLDS,	:	
AND SYNDI GUIDO	:	
Defendants	:	

CERTIFICATE OF CONCURRENCE

Undersigned counsel for the defendants hereby certifies that she sought and received the concurrence of plaintiff's counsel, Don Bailey, in defendants' motion to expand the page limit for the brief in support of their motion to dismiss or strike plaintiff's second amended complaint.



Syndi L. Guido
Deputy General Counsel
Governor's Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101
(717) 783-6563

Dated: May 16, 2001

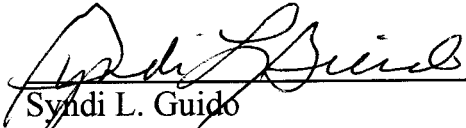
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DARRELL G. OBER,	:	
	:	
Plaintiff	:	NO. 1: CV-01-0084
	:	(Judge Caldwell)
vs.	:	
	:	
	:	CIVIL ACTION - LAW
PAUL EVANKO, MARK	:	
CAMPBELL, THOMAS COURY,	:	JURY TRIAL DEMANDED
JOSEPH WESTCOTT,	:	
HAWTHORNE CONLEY,	:	
JOANNA REYNOLDS,	:	
AND SYNDI GUIDO	:	
Defendants	:	

CERTIFICATE OF SERVICE

I hereby certify that, on this date, I served a copy of Defendants' Motion to Expand the Page Limit for Their Brief in Support of the Motion to Dismiss or Strike Plaintiff's Second Amended Complaint upon plaintiff's counsel by First Class Mail, U.S. Postal Service, addressed as follows:

Don Bailey, Esquire
4311 North 6th Street
Harrisburg, PA 17110


Syndi L. Guido
Deputy General Counsel
Governor's Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101
(717) 783-6563

Dated: May 16, 2001